



PAUL F. FERGUSON
CLERK OF THE CIRCUIT COURT
FOR THE
COUNTY OF ARLINGTON

FOR THE PERIOD
OCTOBER 1, 2022 THROUGH MARCH 31, 2024

Auditor of Public Accounts
Staci A. Henshaw, CPA

www.apa.virginia.gov

(804) 225-3350



COMMENTS TO MANAGEMENT

We noted the following matters involving internal control and its operation that has led or could lead to noncompliance with laws and regulations, the loss of assets or revenues, or otherwise compromise the Clerk's fiscal accountability.

Appropriately Use Non-Reverting Funds

Repeat: No

The Clerk did not use non-reverting funds in accordance with the Code of Virginia. Clerks deposit the fees charged for electronic filing and secure remote access to court records in a non-reverting local fund that is to be used exclusively for operational expenses. Section 17.1-295 of the Code of Virginia defines operational expenses as those used to maintain the clerk's office including, but not limited to, computer support, maintenance, enhancements, upgrades, and replacements; office automation and technology equipment; preserving, maintaining, and enhancing court records; and improving public access to records maintained by the clerk. During the audit period, the Clerk spent approximately \$30,000 of non-reverting funds on expenses related to the Board of Zoning Appeals, a retirement event for a chief judge, the clerk's attendance at non-profit events, and food for a dinner with other clerks, which do not appear to be related to maintaining the clerk's office. The Clerk should use all non-reverting funds exclusively for operational expenses to maintain the clerk's office as required by the Code of Virginia.

Remit State Collections and Reimburse Court Funds

Repeat: No

The Clerk withdrew \$35,000 in court funds from a certificate of deposit in the court's name, incurring an early withdrawal penalty of \$1,428 and causing an under-remittance of funds to the Commonwealth. According to the Clerk, the funds were used to provide a loan to the Arlington Bar Association for a retirement party for a chief judge. To record the withdrawal in the financial system, the Clerk's staff made a journal entry to the clerk's fees account, which created a negative balance. The Clerk is required to remit all clerk's fees collected to the Commonwealth in accordance with § 2.2-806 of the Code of Virginia. Due to the negative balance in the account, the Clerk did not disburse a total of \$19,709 in clerk's fees receipted between May and October of 2023.

The Clerk should remit the \$19,709 in clerk's fees to the Commonwealth and, going forward, should remit all clerk's fees he collects to the Commonwealth as required by the Code of Virginia. Additionally, the Clerk has received reimbursement of \$16,719 of the funds spent on the retirement party from the local bar association and the venue that hosted the event, and he should reimburse the court for the remainder of the funds withdrawn from the certificate of deposit.

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Commonwealth of Virginia

Auditor of Public Accounts

Staci A. Henshaw, CPA
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

August 16, 2024

The Honorable Paul F. Ferguson
Clerk of the Circuit Court
County of Arlington

Libby Garvey, Chariman
County of Arlington

Audit Period: October 1, 2022, through March 31, 2024
Court System: County of Arlington

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of this locality for the period noted above. Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies.

Management's Responsibility

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. Deficiencies in internal controls could lead to noncompliance with laws and regulations, the loss of assets or revenues, or otherwise compromise the Clerk's fiscal accountability.

We noted matters involving internal control and its operation necessary to bring to management's attention. These matters are discussed in the section titled Comments to Management. Any written corrective action plan to remediate these matters provided by the Clerk is included as an enclosure to this report. We did not validate the Clerk's corrective action plan and, accordingly, cannot take a position on whether it adequately addresses the issues in this report.

The Clerk has taken corrective action to remediate the internal control finding that we reported in the previous audit.

We discussed these comments with the Clerk, and we acknowledge the cooperation extended to us by the Clerk and his staff during this engagement.

Staci A. Henshaw

AUDITOR OF PUBLIC ACCOUNTS

LJH:vks

cc: The Honorable Judith L. Wheat, Chief Judge
Mark Schwartz, County Manager
Robyn M. de Socio, Executive Secretary
Compensation Board
Paul F. DeLosh, Director of Judicial Services
Supreme Court of Virginia



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CLERK OF THE CIRCUIT COURT
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Paul Ferguson
Clerk, Circuit Court

October 11, 2024

Ms. Staci A. Henshaw
Auditor of Public Accounts
Commonwealth of Virginia
101 North 14th Street, 8th Floor
Richmond, VA 23219

Response to October 8, 2024, Comments to Management

Dear Ms. Henshaw,

I have reviewed the October 8, 2024, Audit Report prepared for my office. My response to the comments to management are set forth below.

I acknowledge and appreciate the audit process is an opportunity for everyone in my office to become familiar with different and potentially better ways of doing things. We have always worked with your office to implement best practices, consistent with the operational needs of our Court and constituents.

I am proud that the Arlington Circuit Clerk's Office had no "work findings" and that the office is working on daily functions without significant errors requiring an audit finding.

I appreciate the direction given by the audit which clarifies operational spending and will ensure that any issues are corrected.

Appropriately Use Non-Reverting Funds

Repeat: No

Clerk's Response

The Members of the Board of Zoning Appeals are appointed by the Circuit Court Judges. The appointments are coordinated by the Clerk of the Circuit Court. The Board of Zoning Appeals are independent from the County government and therefore receive no funding from Arlington County. Since the Board of Zoning Appeals is appointed by the Circuit Court, they asked the Circuit Court Clerk's Office to provide minimal funding for staffing and legal expenses.

Corrective action has been taken by the Circuit Court Clerk so that no State funds will be used for the Board of Zoning Appeals.

William T. Newman Jr. retired as Chief Judge of the Arlington Circuit Court after 30 years of distinguished service. Before becoming a Circuit Court Judge he served as a member of the Arlington County Board. It was important to employees of the Courthouse to hear remarks from Judge Newman and other Courthouse officials. As Clerk of the Circuit Court, it fell upon me to organize the Courthouse event. Minimal funds were expended.

Corrective action has been taken by the Clerk of the Circuit Court in that no State funds will be used for a retirement event in the future.

The Clerk of the Circuit Court is expected to attend functions sponsored by the Arlington Bar Association, the Arlington Bar Foundation, the Arlington Chamber of Commerce, and the Arlington Community Foundation. These are widely attended events.

Corrective action has been taken by the Clerk of the Circuit Court in that no State funds will be used to attend "nonprofit events."

Remit State Collections and Reimburse Court Funds

Repeat: No

As referenced above, William T. Newman Jr. retired as Chief Judge of the Arlington Circuit Court after 30 years of distinguished service. Before becoming a Circuit Court Judge, he served as a member of the Arlington County Board. It was important to the legal community of Arlington and Northern Virginia to have an event honoring his outstanding career.

When plans for a retirement event for Judge Newman were formulating, the Arlington County Bar Association informed the Circuit Court Clerk that they did not have money needed for a security deposit and initial expenses needed for the event.

It is misleading to infer that the money loaned by the Circuit Court Clerk's Office to the Arlington Bar for the retirement event was out of the Clerk's Operating account. When Paul Ferguson became Clerk of the Circuit Court for Arlington County on January 1, 2008, he was informed that that funds in the amount of \$144,923.85 were of an undetermined origin. Paul Ferguson was told by his predecessor, David Bell, who served as Clerk of the Circuit Court for 31 years from 1977-2007 that he was told when he became Clerk that that the origin of the funds could not be determined. Therefore, the funds were placed in a Certificate of Deposit separate from normal operating account funds. The interest from the Certificate of Deposit became excess fees and were transferred on a yearly basis to the operational account. For Mr. Bell's 31-year tenure and Mr. Ferguson's 15-year tenure these funds were untouched. Paul Ferguson was told by his staff that the money held in the Certificate of Deposit was not subject to the same rules as state operations. The Arlington Clerk of the Circuit Court loaned the Bar Association \$35,000 to cover initial expenses and was repaid by the Bar Association in the amount of \$16,719 and is owed \$19,709.

The repaid funds of \$16,719 were deposited in the form of a Certificate of Deposit and is now continuing to earn interest that gets transferred to the State monthly. The Arlington County Bar Association owes the Clerk of the Circuit Court \$19,709.

Corrective action has been taken by the Clerk of the Circuit Court in that the funds of unknown origin will be maintained in a Certificate of Deposit and efforts will be made to recoup the loan balance from the Arlington County Bar Association.

Please do not hesitate to contact me if you have any questions about any of the above responses.

Sincerely,
[Signature on File](#)

Paul Ferguson
Clerk of the Circuit Court
17th Judicial Circuit